

REMARKS

By this amendment, claims 1-30 are pending, in which no claim is canceled, currently amended, or newly presented.

The Office Action mailed February 23, 2006 rejected claims 1-30 as obvious under 35 U.S.C. § 103 based on *Green et al.* (US 6,003,084) in view of *Kelly et al.* (US Publ. No. 20010048670).

This rejection is respectfully traversed, because *Kelly et al.* cannot preclude patentability for obviousness in light of the American Inventors Protection Act (AIPA), Pub. L. 106-113, §4807, effective for all applications filed on or after November 29, 1999. As amended, 35 U.S.C. § 103(c) provides:

(c) Subject matter developed by another person, which qualifies as prior art only under subsection (e), (f), or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention as made, owned by the same person or subject to an obligation of assignment to the same person.

The present application was after the Nov. 29, 1999 enactment date of this provision of the AIPA and is therefore entitled to benefit from the AIPA's prior art exclusion for certain commonly assigned patents. The present application has a filing date of July 21, 2001, which is before the December 6, 2001 publication date of *Kelly et al.* Thus, *Kelly et al.* would qualify as prior art only under subsections (e), (f), or (g) of § 102. Since both the present application and *Kelly et al.* were commonly assigned at the time the claimed invention was made, the use of *Kelly et al.* in the obviousness rejection is disallowed by law.

Therefore, the present application overcomes the rejection of record and is in condition for allowance. Favorable consideration of this application is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (301) 601-7252 so that such issues may be resolved as expeditiously as possible. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,


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